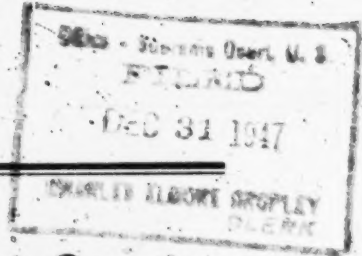


Nos. 72, 87, 290, 291



IN THE
Supreme Court of the United States
OCTOBER TERM, 1947

J. D. SHELLEY, ET AL., *Petitioners*

V.

LOUIS KRAEMER, ET AL.

ORSEL MCGEE, ET AL., *Petitioners*

V.

BENJAMIN J. SIPES, ET AL.

JAMES M. HURD, ET AL., *Petitioners*

V.

FREDERICK E. HODGE, ET AL.

RAPHAEL G. URCILO, ET AL., *Petitioners*

V.

FREDERICK E. HODGE, ET AL.

**ON WRITS OF CERTIORARI TO THE SUPREME
COURTS OF MISSOURI AND MICHIGAN AND THE
UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA.**

**MOTION FOR LEAVE TO FILE AND BRIEF FOR THE
AMERICAN FEDERATION OF LABOR AS
AMICUS CURIAE.**

HERBERT S. THATCHER,
ROBERT A. WILSON,

Attorneys.

Of Counsel:

HARRY B. MERICAN

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AMICUS CURIAE.**

**Motion of the American Federation of Labor for Leave to
File Brief as Amicus Curiae.**

The American Federation of Labor respectfully prays
leave to file a brief as amicus curiae in the above-mentioned
cases. The applicant has filed with the Clerk the written
consent of counsel for petitioners and for respondents in

Nos. 290, 291 and No. 87. The applicant has in writing requested the consent of counsel for petitioners and for respondents in No. 72. No reply has as yet been received.

The American Federation of Labor (A. F. of L.) is an association of labor unions formed for the purpose of protecting and advancing the interests of workers in the United States. In 1947 its affiliated unions included 7,577,716 members.¹ Some 750,000 of these members were Negroes.

The interest of the A. F. of L. in the cases now before this Court is founded upon its desire to help in every possible way to secure for its members—and for all Americans—the opportunity to live in decent homes in physically and socially healthy surroundings. The judicial enforcement of racial restrictive covenants is one of the chief means by which its Negro members are confined to ghettos and prevented from competing in the open market for what little unoccupied dwelling space exists today. It is also the instrument which will negate, for our Negro members, full participation in any expansion of housing facilities in the United States which may be undertaken in the future. All that the A. F. of L. has accomplished in raising the income of Negro workers in the past—all that may be done in the future—is rendered virtually worthless when members cannot use their increased means to leave the ghettos and move to more congenial surroundings.

During its entire history, the A. F. of L. has fought for equal job rights and benefits for all its members, regardless of race, creed, or color. It has consistently opposed any discrimination against minority groups in the opportunity for obtaining jobs, in the wage rates paid on the job, or in the method of selection for advancement on the job. Its actions have been guided by the principle that the weakening of union standards to the detriment of any minority group

¹ American Federation of Labor Report of the Executive Council to the 66th Convention (1947), p. 10.

threatens the standards of the entire work force. Thus, in the view of the A. F. of L. the fight to eliminate discrimination in job opportunities, in wage standards, and likewise in the opportunity to obtain adequate housing facilities, has not been a fight for minority groups alone but for the entire laboring population of this country.

Evidence of this philosophy by the Federation abounds in the official reports of A. F. of L. activities. By convention action the A. F. of L. has placed itself on record, many times over, against all forms of discrimination based on race, creed, color or national origin. In its attempts to eliminate discrimination, the A. F. of L. has consistently declared its support of federal legislation to abolish the poll tax, to adopt a national anti-lynching bill and to establish a permanent Fair Employment Practices Commission.²

The Federation has also made every effort to secure passage of federal legislation to encourage construction of new housing which will be available to persons at the lower income levels. The Taft-Ellender-Wagner Bill has been supported by the A. F. of L. in the hope that it will help to solve the immediate problems of many American workmen.³ Even if such a measure should be passed by the Congress, its effectiveness, so far as Negro members are concerned, will be made difficult so long as courts may enforce racial restrictive covenants. The great majority of Negroes in urban areas are either actual or potential union members.

BRIEF FOR THE AMERICAN FEDERATION OF LABOR AS AMICUS CURIAE.

Question Presented

Other briefs submitted in these cases discuss in considerable detail the legal and social problems involved. With the

² American Federation of Labor. "The American Federation of Labor Fights Discrimination." Pamphlet: American Federation of Labor. Report of Proceedings of 66th Convention (1947), pp. 629, 630, 652.

³ American Federation of Labor. Report of the Executive Council to the 66th Convention, p. 127.

arguments advanced, particularly in the brief for petitioners, Nos. 290 and 291, the A. F. of L. is in full accord. We feel there is no need for repeating these arguments. In this brief, we wish to emphasize instead the effect which these racial restrictive covenants have had on the welfare and living standards of members of the American Federation of Labor.

SUMMARY OF ARGUMENT

The American Federation of Labor will establish the fact that housing conditions for Negroes are inferior to those available for white persons largely because of the operation of racial restrictive covenants. It will further show the significance of this fact to Negroes and to the communities in which they live.

Data gathered by the Bureau of the Census support the conclusion that Negroes, more frequently than whites, live in substandard, overcrowded houses. Poverty of Negroes as a class is not the sole reason for this condition. Analysis of information contained in the 1940 U. S. Census establishes the fact that discrimination forces Negroes to accept inferior dwellings for the same rentals as paid by whites. Discrimination likewise forces Negro families to "double up" with other families to a greater degree than is necessary for white families. There is no immediate prospect that this situation will be remedied by new construction. Poor housing, aggravated by racial restrictive covenants, creates a breeding ground for juvenile delinquency.

Residential segregation is caused by poverty, ethnic attachment and discriminatory coercion. It has frequently been encountered in American cities where immigrants gather. But these people often choose segregation while they become familiar with the language and customs of the country. Later, they disperse. The Negro, as a result of discrimination, is a permanent alien. Informal social pres-

sure is an important weapon in the enforcement of segregation. Until this Court, in *Buchanan v. Worley*, 245 U.S. 60; *Harmon v. Tyler*, 273 U.S. 668, and *City of Richmond v. Deans*, 281 U.S. 704, found the practice unconstitutional, municipal zoning ordinances were used to support this informal coercion. After these cases were decided, persons interested in perpetuating residential segregation had recourse to the racial restrictive covenant, which performed all the functions of the outlawed zoning ordinances so long as they were enforced by the judiciary.

ARGUMENT

I. NEGROES OCCUPY POORLY EQUIPPED, RUN-DOWN AND OVERCROWDED DWELLINGS TO A GREATER DEGREE THAN DO WHITE PERSONS.

In the first place, consideration should be given to the actual conditions under which people live in the United States today, in a situation shaped to a considerable degree by racial restrictive covenants. In April, 1947, the Bureau of the Census, Department of Commerce, undertook a series of sample surveys in 34 metropolitan areas throughout the United States, and it has since issued Current Population Reports presenting data on population characteristics, housing and labor force. There is now in preparation a report on characteristics of occupied dwelling units by color of occupant.⁴

One table of the housing report on each area deals with characteristics of the dwelling units involved. There are, however, only 13 areas in which ordinary occupied dwelling units are classified according to the color of the occupants.⁵

⁴ Current Population Reports. Housing Characteristics. Series P-70. No. 2.

⁵ The Census Bureau distinguishes between "ordinary" and "other-than-ordinary" housing. The latter group includes trailer camps, tourist cabins, etc. Hotels, dormitories, rooming houses with 10 or more rooms, institutions, jails, and military or labor camps are not included in the survey. Current Population Reports. Housing. Series P-71, No. 35, p. 2.

But these reports relate to districts which, combined, house roughly one-quarter of the Nation's Negro population.

There are presented below tables summarizing salient features of the data on each of the metropolitan districts for which data for white persons and non-white persons were compiled separately.

Washington, D. C.

At the time the survey—April, 1947—was made in the Washington, D. C., Metropolitan District, the population was estimated to be 919,232 white persons and 285,988 non-white persons.⁶ At the same time, the area contained 275,388 ordinary dwelling units occupied by whites and 68,052 occupied by non-whites.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN WASHINGTON, D. C.*

	White	Non-white
Population	919,232	285,988
Per cent of total	76	24
Ordinary dwelling units	275,388	68,052
Per cent of total	80	20
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	95	71
Private flush toilet, no bath	1	6

* Analysis of these figures shows clearly that greater proportions of the non-white population than of the white inhabitants lacked the conveniences of modern homes, lived in run-down dwelling units, occupied low-rent quarters, and lived in crowded units. This is generally typical of all cities studied. Comparison with data for the twelve other districts discloses that for white dwelling units Washington—with Philadelphia—had the greatest proportion of home units containing both a private bath and private flush toilet; complete electrification—with six other districts; and central heating—with Philadelphia; and the highest percentage of

¹ Less than 1 per cent.

Source: Current Population Reports, Housing, Series P-71, No. 1, p. 6.

⁶ Current Population Reports, Population Characteristics, Series P-21, p. 2. It is estimated that this sample survey yields results which are accurate within a range of 6 per cent.

	White	Non-white
Running water, no private flush toilet	4	12
No running water	1	11
In need of major repair	2%	19%
Other facilities		
Cooking facilities	98%	92%
Electric lighting	100%	92%
Central heating	97%	70%
Number of persons per room		
Total	100%	100%
0.50 persons or less	30	18
0.51 to 1.50 persons	66	69
1.51 or more persons	4	12
Monthly rentals		
Total	100%	100%
Under \$10
\$10 to \$19	1	13
\$20 to \$29	4	17
\$30 to \$39	17	30
\$40 to \$49	19	18
\$50 or more	59	23

Baltimore, Maryland

The population of the Baltimore, Maryland, Metropolitan District consisted of 1,021,657 whites and 284,383 non-whites.⁷ The area contained 291,387 ordinary dwelling units

units renting for \$50 per month or more. Its units occupied by whites had the smallest percentage with private flush toilet, but no private baths; of units with no running water—with four other areas; of units in need of major repairs—with Chicago; of units renting for less than \$10 monthly—with four other areas; of units renting from \$10-19; \$20-29; and \$30-39—with New Orleans. For non-white units, Washington had the largest percentage of units occupied by 0.51 to 1.50 persons per room; and of units renting for \$50 or more monthly; it had the smallest proportion of units renting for less than \$10; and from \$10-19. As between characteristics of white-occupied and non-white-occupied units in the same district, of all 19 districts Washington had the largest discrepancy between proportions of units renting for \$50 or more monthly and the least differences with regard to units renting for less than \$10—with Detroit; and units renting from \$40-49.

⁷ Current Population Reports. Population Characteristics. Series P-21, No. 28, p. 5.

occupied by white persons and 63,139 occupied by non-white persons.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN BALTIMORE, MD.*

	White	Non-white
Population	1,021,657	284,383
Per cent of total	78	22
Ordinary dwelling units	291,387	63,139
Per cent of total	82	18
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	89	65
Private flush toilet, no bath	2	10
Running water, no private flush toilet	7	18
No running water	2	7
In need of major repair	4%	33%
Other facilities		
Cooking facilities	98%	88%
Electric lighting	100%	97%
Central heating	87%	46%
Number of persons per room		
Total	100%	100%
0.50 persons or less	38	24
0.51 to 1.50 persons	60	68
1.51 or more persons	2	8
Monthly rentals		
Total	100%	100%
Under \$10	2
\$10 to \$19	9	22
\$20 to \$29	19	38
\$30 to \$39	28	22
\$40 to \$49	21	13
\$50 or more	22	4

Source: Current Population Reports. Housing. Series P-71, No. 28, p. 6.

* Compared with the other cities covered in the survey, Baltimore was one of seven cities in which all units occupied by whites had electric lighting; and it was one of five cities in which there were no such units renting at under \$10 per month. It was also one of three cities which showed the greatest difference in proportions between units occupied by white and non-whites in regard to occupancy by 0.51 to 1.50 persons per room.

Atlanta, Georgia

The population of the Atlanta, Georgia, Metropolitan District consisted of 355,224 white persons and 142,885 non-white persons.* In this area there were 96,473 ordinary dwelling units occupied by whites and 40,426 occupied by non-whites.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN ATLANTA, GEORGIA.

	White	Non-white
Population	355,224	142,885
Per cent of total	71	29
Ordinary dwelling units	96,473	40,426
Per cent of total	70	30
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	82	43
Private flush toilet, no bath	3	15
Running water, no private flush toilet	10	14
No running water	6	28
In need of major repair	6%	28%
Other facilities		
Cooking facilities	99%	93%
Electric lighting	99%	77%
Central heating	54%	10%
Number of persons per room		
Total	100%	100%
0.50 persons or less	30	15
0.51 to 1.50 persons	64	65
1.51 or more persons	6	21

Source: Current Population Reports. Housing. Series P-71, No. 6, p. 6.

* By comparison with the other cities surveyed by the Census Bureau, Atlanta—with five other cities—had the highest proportion of units occupied by white persons which had installed cooking facilities. It was one of four cities in which the proportion of non-white units occupied by 0.50 persons or less per room was lowest; and it was one of four cities in which there were no such units renting for \$50 or more per month. As regards the spread between proportions of units occupied by whites and non-whites, the largest difference in units occupied by 0.50 or less persons per room was found in this city.

* Current Population Reports. Population Characteristics. Series P-21, No. 6, p. 5.

	White	Non-white
Monthly rentals		
Total	100%	100%
Under \$10	5	23
\$10 to \$19	21	58
\$20 to \$29	21	13
\$30 to \$39	22	4
\$40 to \$49	15	1
\$50 or more	16	..

Birmingham, Alabama

The population of Birmingham, Alabama, Metropolitan District consisted of 292,638 white persons and 209,760 non-white persons.⁹ There were 80,902 ordinary dwelling units in this area occupied by whites and 54,454 occupied by non-whites.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN BIRMINGHAM, ALA.*

	White	Non-white
Population	292,638	209,760
Per cent of total	58	42
Ordinary dwelling units	80,902	54,454
Per cent of total	60	40
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	78	17
Private flush toilet, no bath	2	25

Source: Current Population Reports. Housing. Series P-71, No. 32, p. 6.

* Comparison with data for the other cities included in the survey shows that, with regard to the dwelling units occupied by whites, Birmingham had the largest proportion of units having running water, but no private bath; it had—with five other cities—the largest proportion of units containing installed cooking facilities; and the largest percentage of units renting for less than \$10 per month. It had the lowest percentage in the following respects: units with private bath and private flush toilet; and units renting for \$50 or more per month. In regard to dwelling units occupied by non-whites, it showed the highest proportions in the following respects: units having no running water—with Memphis;

⁹ Current Population Reports. Population Characteristics. Series P-21, No. 32, p. 5.

	White	Non-white
Running water, no private flush toilet	15	27
No running water	5	30
In need of major repair	8%	30%
Other facilities		
Cooking facilities	99%	94%
Electric lighting	99%	89%
Central heating	43%	4%
Number of persons per room		
Total	100%	100%
0.50 persons or less	28	17
0.51 to 1.50 persons	66	58
1.51 or more persons	6	25
Monthly rentals		
Total	100%	100%
Under \$10	6	47
\$10 to \$19	26	48
\$20 to \$29	27	5
\$30 to \$39	19	1
\$40 to \$49	12	..
\$50 or more	9	..

Chicago, Illinois

The population of the Chicago, Illinois, Metropolitan District was composed of 4,197,270 white persons and 447,370 non-white persons.¹⁰ There were 1,222,760 ordinary dwelling units in this area occupied by whites and 111,265 occupied by non-whites.

units occupied by 1.51 persons or more per room; units renting for less than \$10 per month. It had the lowest percentage in the following respects: units having both private bath and private flush toilet; units renting at \$20-29 per month; at \$30-39; at \$40-49—with two other cities; and at \$50 or more—with three other cities. It showed the widest differences in proportion between whites and non-whites in the following respects: units having private bath and private flush toilet; units having no running water; units occupied by 0.51 to 1.50 persons per room—with two other cities; units occupied by 1.51 or more persons per room; and units renting for \$10 or less per month. In no case did it present the minimum gap.

¹⁰ Current Population Reports. Population Characteristics. Series P-21, No. 29, p. 5.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN CHICAGO, ILL.*

	White	Non-white
Population	4,197,270	447,370
Per cent of total	90	10
Ordinary dwelling units	1,222,760	111,265
Per cent of total	92	8
Plumbing facilities and repair		
Total ..	100%	100%
Private bath and private flush toilet	92	78
Private flush toilet, no bath	2	4
Running water, no private flush toilet	5	12
No running water	1	6
In need of major repair	2%	12%
Other facilities		
Cooking facilities	99%	96%
Electric lighting	100%	100%
Central heating	82%	72%
Number of persons per room		
Total	100%	100%
0.50 persons or less	38	25
0.51 to 1.50 persons	60	62
1.51 or more persons	2	13

Source: Current Population Reports, Housing.
Series P-71, No. 29, p. 3.

* Comparison with data for the other cities surveyed shows that with regard to dwelling units occupied by whites, Chicago had the highest percentage in the following respects: units having installed cooking facilities—with five other cities; electric lighting in all units—with six other cities; units renting for from \$40-49 monthly. It had the lowest proportions in the following respects: units having no running water—with four other cities; and in units requiring major repairs—with Washington. With regard to dwelling units occupied by non-whites, it had the highest percentages in the following categories: electric lighting in all units—with Detroit; and units renting from \$40-49 per month. It had the lowest proportions in the following respects: units having private flush toilets but no private bath—with Philadelphia; units in need of major repairs; units renting under \$10 per month—with two other cities. It showed the smallest differences in proportions between white and non-whites in the following respects: units with electric lighting—with Detroit; units renting at \$10-19 monthly; \$20-29; \$30-39; and \$50 or more. As these latter figures show, Chicago shows the least differentiation in distribution of dwelling units so far as rentals are concerned.

	White	Non-white
Monthly rentals		
Total	100%	100%
Under \$10	1	1
\$10 to \$19	11	15
\$20 to \$29	17	18
\$30 to \$39	24	20
\$40 to \$49	28	24
\$50 or more	20	22

Dallas, Texas

The population of the Dallas, Texas, Metropolitan District consisted of 399,344 white persons and 70,708 non-white persons.¹¹ There were 123,068 ordinary dwelling units in the area occupied by whites and 21,208 occupied by non-whites.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN DALLAS, TEXAS.*

	White	Non-white
Population	399,344	70,708
Per cent of total	85	15
Ordinary dwelling units	123,068	21,208
Per cent of total	85	15
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	86	55
Private flush toilet, no bath	1	13

Source: Current Population Reports. Housing.
Series P-71, No. 34, p. 6.

* Comparison with data for the other cities surveyed shows that with regard to dwelling units, occupied by whites, Dallas—with St. Louis—had the highest percentage of units in need of major repairs. It had the lowest percentage with respect to units equipped with installed cooking facilities; and with central heating. With regard to dwelling units occupied by non-whites, it had the lowest percentage of units equipped with central heating—with New Orleans; and of units renting for \$50 or more monthly—with three other cities. It showed the smallest difference in proportion between white and non-white units with respect to equipment with central heating.

¹¹ Current Population Reports. Population Characteristics. Series P-21, No. 34, p. 5.

	White	Non-white
Running water, no private flush toilet	7	9
No running water	7	22
In need of major repair	9%	34%
Other facilities		
Cooking facilities	97%	90%
Electric lighting	99%	93%
Central heating	4%	1%
Number of persons per room		
Total	100%	100%
0.50 persons or less	34	23
0.51 to 1.50 persons	59	62
1.51 or more persons	7	15
Monthly rentals		
Total	100%	100%
Under \$10	2	5
\$10 to \$19	14	47
\$20 to \$29	25	35
\$30 to \$39	30	10
\$40 to \$49	17	2
\$50 or more	12	..

Detroit, Michigan

The population of the Detroit, Michigan, Metropolitan District was composed of 2,354,153 whites and 348,245 non-white persons.¹² There were 666,796 ordinary dwelling units occupied by whites and 83,386 units by non-whites.

CHARACTERISTICS OF ORDINARY DWELLING-UNITS, BY COLOR OF OCCUPANTS, IN DETROIT, MICH.*

	White	Non-white
Population	2,354,153	348,245
Per cent of total	87	13
Ordinary dwelling units	666,796	83,386

Source: Current Population Reports, Housing. Series P-71, No. 19, p. 6.

* By comparison with data for other cities, with regard to dwelling units occupied by whites, Detroit had the highest percentages with

¹² Current Population Reports. Population Characteristics. Series P-21, No. 19, p. 5.

	White	Non-white
Per cent of total	89	11
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	93	84
Private flush toilet, no bath	1	8
Running water, no private flush toilet	4	7
No running water	1	2
In need of major repair	3%	25%
Other facilities		
Cooking facilities	99%	99%
Electric lighting	100%	100%
Central heating	87%	58%
Number of persons per room		
Total	100%	100%
0.50 persons or less	35	30
0.51 to 1.50 persons	63	63
1.51 or more persons	2	7
Monthly rentals		
Total	100%	100%
Under \$10
\$10 to \$19	3	9
\$20 to \$29	17	33
\$30 to \$39	35	41
\$40 to \$49	27	14
\$50 or more	17	3

respect to the following factors: units equipped with installed cooking facilities—with five cities; units with electric lighting—with six cities. It had the lowest percentages with respect to units having no running water—with four cities; and units renting for under \$10 monthly—with four cities. With regard to dwelling units occupied by non-whites, it had the highest percentage with respect to the following factors: units with private bath and private flush toilet; units with installed cooking facilities; units with electric lighting—with Chicago; and units with monthly rentals of \$30-39. It had the lowest percentages for the following factors: units having running water, but no private flush toilet; units having no running water—with Philadelphia; units occupied by 1.51 or more persons per room—with Philadelphia; and units with rentals under \$10 per month. It showed the smallest difference in proportions between white and non-white units with respect to: units with private bath and private flush toilet; units having no running water—with Philadelphia; units with installed cooking facilities; units with electric lighting—with Chicago; units with 0.50 or less persons per room—with Philadelphia; and units renting for under \$10 monthly—with Washington.

Memphis, Tennessee

The population of the Memphis, Tennessee, Metropolitan District consisted of 239,010 white persons and 163,742 non-whites.¹³ This area contained 66,123 ordinary dwelling units occupied by white persons and 45,260 occupied by non-white persons.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN MEMPHIS, TENN.*

	White	Non-white
Population	239,010	163,742
Per cent of total	59	41
Ordinary dwelling units	66,123	45,260
Per cent of total	59	41
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	80	30
Private flush toilet, no bath	2	28
Running water, no private flush toilet	11	12
No running water	6	30
In need of major repair	4%	19%

Source: Current Population Reports. Housing. Series P-71, No. 14, p. 6.

* Comparison with the data for the other cities surveyed reveals that with regard to dwelling units occupied by whites, Memphis—with Norfolk-Portsmouth-Newport News—had the highest proportion of units occupied by 0.51 to 1.50 persons per room; and of units occupied by 0.50 or less persons per room. With regard to dwelling units occupied by non-whites, it had the highest percentage of units with private flush toilet, but no bath; and—with Birmingham—of units with no running water. It had the lowest percentage in the following categories: units with electric lighting; units occupied by 0.50 or less persons per room—with two cities; and units renting for \$50 or more per room—with three cities. It showed the greatest differences between proportions of units occupied by whites and non-whites in the following categories: units with private flush toilet, but no private bath; units with electric lighting; and units renting from \$40-49 monthly. It showed the smallest difference in proportion of white and non-white units having running water, but no private flush toilet—with Tulsa.

¹³ Current Population Reports. Population Characteristics. Series P-21, No. 14, p. 5.

	White	Non-white
Other facilities		
Cooking facilities	98%	94%
Electric lighting	99%	76%
Central heating	46%	4%
Number of persons per room		
Total	100%	100%
0.50 persons or less	24	15
0.51 to 1.50 persons	67	61
1.51 or more persons	9	24
Monthly rentals		
Total	100%	100%
Under \$10	2	32
\$10 to \$19	12	52
\$20 to \$29	24	10
\$30 to \$39	23	4
\$40 to \$49	19	1
\$50 or more	20	..

New Orleans, Louisiana

The population of New Orleans, Louisiana, Metropolitan District was composed of 434,784 white persons and 166,824 non-white persons.¹⁴ This area contained 122,976 ordinary dwelling units occupied by white persons and 44,464 occupied by non-white persons.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN NEW ORLEANS, LA.

	White	Non-white
Population	434,784	166,824
Per cent of total	72	28

Source: Current Population Reports. Housing. Series P-71, No. 31, p. 6.

* Comparison with the data for the other cities surveyed reveals that New Orleans, with regard to dwelling units occupied by whites, has the highest proportion of units renting at from \$10-19 per month, and the lowest percentages of: units with no running water—with four cities; units renting at from \$30-39—with Washington; and units renting from \$40-49. With regard to dwelling units occupied by Negroes, it had

¹⁴ Current Population Reports. Population Characteristics. Series P-21, No. 31, p. 5.

	White	Non-white
Ordinary dwelling units	122,976	44,464
Per cent of total	73	27
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	93	53
Private flush toilet, no bath	1	19
Running water, no private flush toilet	5	12
No running water	1	16
In need of major repair	7%	42%
Other facilities		
Cooking facilities	98%	85%
Electric lighting	99%	82%
Central heating	15%	1%
Number of persons per room		
Total	100%	100%
Under \$10	2	20
\$10 to \$19	29	61
\$20 to \$29	27	16
\$30 to \$39	17	2
\$40 to \$49	11	..
\$50 or more	13	1

Norfolk—Portsmouth—Newport News, Virginia

The Bureau of the Census combined Norfolk, Portsmouth and Newport News, Virginia, into a single Metropolitan District for the purposes of this survey. The population of these communities consisted of 329,376 white persons and 141,658 non-white persons.¹⁵ The area contained 95,974 ordinary dwelling units occupied by whites and 37,318 occupied by non-whites.

the highest proportion of units needing major repairs; and of units renting at from \$10-19 monthly. It had the lowest percentage of units with installed cooking facilities; units with central heating—with Dallas; and units with monthly rentals of \$40-49. It showed the greatest differences in proportions of units occupied by whites and non-whites with respect to units needing major repairs; and units with installed cooking facilities.

¹⁵ Current Population Reports. Population Characteristics. Series P-21, No. 13, p. 5.

**CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY
COLOR OF OCCUPANTS, IN NORFOLK, PORTS-
MOUTH AND NEWPORT NEWS, VA.***

	<i>White</i>	<i>Non-white</i>
Population	329,376	141,658
Per cent of total	70	30
Ordinary dwelling units	95,974	37,318
Per cent of total	72	28
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	94	44
Private flush toilet, no bath	1	24
Running water, no private flush toilet	4	17
No running water	2	15
In need of major repair	4%	23%
Other facilities		
Cooking facilities	98%	93%
Electric lighting	100%	88%
Central heating	51%	5%
Number of persons per room		
Total	100%	100%
0.50 persons or less	31	27
0.51 to 1.50 persons	67	62
1.51 or more persons	2	11
Monthly rentals		
Total	100%	100%
Under \$10		11
\$10 to \$19	6	48
\$20 to \$29	16	28
\$30 to \$39	46	11
\$40 to \$49	16	1
\$50 or more	16	1

Source: Current Population Reports. Housing.
Series P-71, No. 13, p. 6.

* Comparison with the data for the other cities surveyed discloses that the tri-cities, with regard to dwelling units occupied by whites, had the largest percentages with respect to the following factors: units with electric lighting—with six cities; units containing 0.51 to 1.50 persons per room—with Memphis; and units with monthly rentals of \$30-39. They had the smallest proportion of units with rentals of under \$10—with four cities. With regard to dwelling units occupied by non-whites they had the lowest proportion—with two cities—of units renting for \$30-39 monthly. They showed the greatest differences in proportion of units occupied by whites and non-whites with respect to units with central heating; and units with monthly rentals of \$30-39; and the least difference with respect to units containing 0.50 or less persons per room.

¹ Less than 1 per cent.

Philadelphia, Pennsylvania

The population of the Philadelphia, Pennsylvania, Metropolitan District was composed of 2,933,280 white persons and 439,410 non-white persons.¹⁶ This region contained 826,149 ordinary dwelling units occupied by whites and 112,908 occupied by non-whites.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN PHILADELPHIA, PA.*

	White	Non-white
Population	2,933,280	439,410
Per cent of total	87	13
Ordinary dwelling units	826,149	112,908
Per cent of total	88	12
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	95	79
Private flush toilet, no bath	1	4

Source: Current Population Reports. Housing. Series P-71, No. 12, p. 6.

* Comparison with the data for two other cities included in the survey discloses that Philadelphia, with regard to dwelling units occupied by whites, had the highest proportions in the following respects: units having both a private bath and a private flush toilet—with Washington; units containing installed cooking facilities—with five cities; units with electric lighting—with five cities; units with central heating—with Washington; and units with 0.50 or less persons per room. It had the lowest percentages with respect to the following factors: units having running water, but no private flush toilet; units having no running water—with four cities; units containing 0.51 to 1.50 persons per room; units with 1.51 or more persons per room; and units with monthly rentals under \$10—with four cities. With regard to dwelling units occupied by non-whites, it had the highest proportions of the following factors: units with central heating; units with 0.50 or less persons per room; and units with monthly rentals of \$20-29. It had the smallest proportions with respect to units having a private flush toilet, but no private bath—with Chicago; units having no running water—with Detroit; units with 0.51 to 1.50 persons per room; and units with 1.51 or more persons per room—with Detroit. It showed the greatest difference in proportion of units occupied by whites and non-whites with respect to units renting at \$20-29 monthly and the least differences with respect to the following factors: units with private flush toilet, but no private bath; units with no running water—with Detroit; units with 0.50 to 1.50 persons per room—with Detroit; and units with 1.51 or more persons per room.

¹⁶ Current Population Reports. Population Characteristics. Series P-21, No. 12, p. 5.

	White	Non-white
Running water, no private flush toilet	3	15
No running water	1	2
In need of major repair	4%	24%
Other facilities		
Cooking facilities	99%	93%
Electric lighting	100%	97%
Central heating	97%	73%
Number of persons per room		
Total	100%	100%
0.50 persons or less	43	36
0.51 to 1.50 persons	56	56
1.51 or more persons	1	7
Monthly rentals		
Total	100%	100%
Under \$10	1	2
\$10 to \$19	12	22
\$20 to \$29	26	55
\$30 to \$39	30	16
\$40 to \$49	17	4
\$50 or more	15	1

¹ Less than 1 per cent.

St. Louis, Missouri

The population of the St. Louis, Missouri, Metropolitan District was composed of 1,344,574 white persons and 239,470 non-white persons.¹⁷ There were 394,856 ordinary dwelling units occupied by whites and 66,990 occupied by non-whites.

¹⁷ Current Population Reports. Population Characteristics. Series P-21; No. 15, p. 5.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN ST. LOUIS, MISSOURI.*

	White	Non-white
Population	1,344,574	239,470
Per cent of total	85	15
Ordinary dwelling units	394,856	66,990
Per cent of total	85	15
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	83	35
Private flush toilet, no bath	4	16
Running water, no private flush toilet	10	37
No running water	3	11
In need of major repair	9%	32%
Other facilities		
Cooking facilities	99%	96%
Electric lighting	100%	97%
Central heating	75%	30%
Number of persons per room		
Total	100%	100%
0.50 persons or less	29	15
0.51 to 1.50 persons	66	62
1.51 or more persons	5	23
Monthly rentals		
Total	100%	100%
Under \$10	5	7
\$10 to \$19	27	55
\$20 to \$29	26	24
\$30 to \$39	19	12
\$40 to \$49	12	2
\$50 or more	12	1

Source: Current Population Reports. Housing. Series P-71, No. 15, p. 6.

* Comparison with the data for the other cities included in the survey discloses that with respect to dwelling units occupied by whites, St. Louis had the highest proportions in the following respects: units in need of major repairs—with Dallas; units with installed cooking facilities—with five cities; units with electric lighting—with six cities. With respect to dwelling units occupied by non-whites, it had the highest percentage of units with running water, but no private flush toilet; and the lowest percentage of units with 0.50 or less persons per room. It also had the greatest difference in proportions between white and non-white units with running water, but no private flush toilet.

Tulsa, Oklahoma

The population of Tulsa, Oklahoma, Metropolitan District was composed of 190,953 white persons and 22,323 non-white persons.¹⁸ There were 58,695 ordinary dwelling units occupied by whites and 6,153 occupied by non-whites.

CHARACTERISTICS OF ORDINARY DWELLING UNITS, BY COLOR OF OCCUPANTS, IN TULSA, OKLAHOMA.*

	White	Non-white
Population	190,953	22,323
Per cent of total	90	10
Ordinary dwelling units	58,695	6,153
Per cent of total	90	10
Plumbing facilities and repair		
Total	100%	100%
Private bath and private flush toilet	79	57
Private flush toilet, no bath	2	6
Running water, no private flush toilet	11	12
No running water	8	25
In need of major repair	6%	13%
Other facilities		
Cooking facilities	98%	94%
Electric lighting	98%	93%
Central heating	38%	11%
Number of persons per room		
Total	100%	100%
0.50 persons or less	33	29

Source: Current Population Reports. Housing.
Series P-71, No. 33, p. 6.

* Comparison with the data of the other cities included in the survey indicates that with respect to dwelling units occupied by whites, Tulsa had the highest percentages of units with no running water; and with monthly rentals of \$20-29; and the smallest percentage of units with electric lighting. It also had the greatest difference in proportions between white and non-white units with 0.51 to 1.50 per persons per room—with two cities; and units with monthly rentals of \$10-19. It had the least differences in proportions with respect to units with running water but no private flush toilet—with Memphis; units in need of major repairs; and units with 0.50 or less persons per room—with Norfolk, Portsmouth, Newport News.

¹⁸ Current Population Reports. Population Characteristics. Series P-21, No. 33, p. 5.

	White	Non-white
0.51 to 1.50 persons	66	58
1.51 or more persons	7	14
Monthly rentals		
Total	100%	100%
Under \$10	2	6
\$10 to \$19	12	57
\$20 to \$29	31	28
\$30 to \$39	30	7
\$40 to \$49	15	2
\$50 or more	10	1

The reports of the Bureau of the Census summarized above show convincingly that non-whites in the United States—and they are predominantly Negroes—live in poorer dwellings than whites. A greater proportion of non-white persons occupying ordinary dwelling units live in homes with limited—or no—plumbing facilities than do white people; their homes are relatively less frequently equipped with installed cooking facilities, electric lighting and central heating; their residences are comparatively more often in need of major repairs; they are more frequently overcrowded; and their dwelling units are comparatively less frequently found among the better residences, as indicated by rents.

II. THESE CONDITIONS REFLECT THE EFFECT OF RACIAL RESTRICTIVE COVENANTS AS WELL AS POVERTY.

The stock answer of those who support racial restrictive covenants to the facts set forth above is that they reflect merely the lower income level of Negroes. But this assertion is contrary to the facts. In addition to poverty, there is no doubt that racial discrimination—and racial restrictive covenants, as a manifestation thereof—plays an important part in forcing Negroes into inferior housing.

This has been proved by C. K. Robinson, Housing Analyst of the National Housing Administration, who studied data collected in the 1940 Federal Census for the purpose

of discovering how far ability to pay (i.e., income level) affected the kind of home which a non-white person could occupy.¹⁹ The data analyzed related to 6,365,845 dwelling units occupied by white families and 850,063 units occupied by non-white families in sixteen northern and western cities and twenty-six southern principal metropolitan districts. It was found that in these localities there were 1,229,883 substandard units occupied by white families, or 19.37 per cent of all units with white occupancy, and 494,990 substandard units occupied by non-white families, or, 58.2 per cent of all units with non-white occupancy.²⁰

The following table summarizes the findings of the analyst with regard to the percentage of dwelling units at specified rent levels which were substandard, classified by the race of the occupant. The ratio of the proportion of non-white units to the proportion of white units at the same rent scale is also shown.

**PROPORTION OF WHITE AND NON-WHITE DWELLING
UNITS WHICH WERE SUBSTANDARD BY
RENTAL LEVELS.***

Monthly Rental Level	Proportion Substandard (%)		Ratio of Non-White to White (Proportion)
	White	Non-White	
Under \$ 5	90.2	97.6	1.1
5-9	87.7	94.1	1.1
10-14	69.4	79.4	1.1
15-19	42.1	55.3	1.3
25-29	14.4	31.0	1.8
30-39	7.7	20.9	2.2
40-49	4.0	13.5	3.4
50-59	3.2	10.9	3.4
60-74	2.8	9.1	3.3
75-99	2.7	10.7	3.9
100 and over	2.8	13.4	4.8

* Robinson, op. cit. p. 297.

¹⁹ C. K. Robinson, "Relationship Between Condition of Dwellings and Rentals by Race." 22 Journal of Land and Public Utility Economics 296 (August, 1924).

²⁰ Robinson, op. cit. p. 298. "Substandard units" were those which lacked either a private flush toilet, a private bath, or running water, or which were in need of major repairs.

The assumption underlying the analysis was that: "If there were no racial factors operating to limit the supply of housing available to Negroes, the units they occupy, distributed by rental groups, would generally tend to fall into the same classification, by state of repair and plumbing, as those occupied by white households.²¹ The study proves conclusively that this is not the case.

The conclusions drawn by the analyst from this study, so far as they are relevant to the subject matter of this brief, are: (1) the non-white group receives more substandard housing for the same price, even at the lowest rental level, where one would expect only poverty to operate as a factor, than does the white group; (2) the progressive increase in the ratio of non-white to white occupancy in substandard housing in each successive rental bracket from the lowest to the highest—with one slight exception—clearly indicates existence of discrimination, independent of ability to pay rent.²²

The above table shows that cost is obviously no factor in determining whether or not a Negro will live in a properly equipped home in good repair, since even at \$100 or more per month there is an appreciable chance that the tenant will live in a substandard dwelling. In fact, the chances are almost as great for a Negro seeking a home which rents for \$100 or more per month as for a white person seeking a home at the \$25-\$29 level. It would be foolish to suppose that Negroes would deliberately choose substandard housing. And the consistency with which the proportion of non-whites in substandard dwellings exceeds those of whites, at every rent level, is a definite indication that this situation is not accidental. If these elements do

²¹ Robinson, op. cit. p. 301.

²² Robinson, op. cit. p. 301; Shuman, "Differential Rents for White and Negro Families," 3 Journal of Housing 169; Council of Social Agencies of the District of Columbia and Vicinity; The Social Survey, a Report on Racial Relations (Nov. 1946) pp. II-C-9,11.

not provide an explanation of the condition reflected by Robinson's data, discrimination does. And housing segregation, implemented by racial restrictive covenants, serves as a foundation of that discrimination.²³

III. CONGESTION IS AGGRAVATED AND PERPETUATED BY RACIAL RESTRICTIVE COVENANTS.

These figures are only a reflection of the fact that racial restrictive covenants narrow the available market for Negroes seeking dwellings.²⁴ Unable to find unoccupied units, they are forced to "double up," causing congestion and leading inevitably to blighted areas and juvenile delinquency.²⁵ Data gathered by the Bureau of the Census and the Bureau of Labor Statistics from July, 1946, through January, 1947, show the extent of this practice among white and Negro families.

"DOUBLING UP" IN ORDINARY DWELLING UNITS OCCUPIED BY NEGRO AND WHITE FAMILIES, JULY, 1946, THROUGH JANUARY, 1947.

Occupied by Whites - Occupied by Negroes

Community	Total Dwelling Units	Pctg. "Doubled Up"	Total Dwelling Units	Pctg. "Doubled Up"
Washington, D. C.	252,450	7	59,760	21
Baltimore, Md.	205,800	8	44,415	20
Chattanooga, Tenn.	26,865	11	9,970	11
Austin, Tex.	22,632	10	3,472	8
Baton Rouge, La.	16,170	9 ⁰	8,406	11
Waco, Tex.	14,340	6	3,472	8
Columbia, S. C.	12,425	13	5,489	9
Raleigh, N. C.	9,462	14	3,476	14
Louisville, Ky.	104,055	9	14,760	12
Memphis, Tenn.	56,544	14	35,748	9

²³ G. Myrdal, "An American Dilemma" (New York, 1944), p. 379.

²⁴ Robinson, op. cit. p. 296.

²⁵ The Bureau of the Census defined as "doubled up" a person living in a dwelling unit which contained more than one family, i.e., the unit contained in addition to the head of the household, married couples or married women with husbands absent.

Community	Occupied by Negroes		Occupied by Whites	
	Total Dwelling Units	Pctg. "Doubled Up"	Total Dwelling Units	Pctg. "Doubled Up"
Jackson, Miss.	10,934	17	5,976	16
Greensboro, N. C.	11,880	16	3,960	17
Charlotte, N. C.	18,886	13	7,976	9
Beaumont-Pt. Arthur, Tex.	25,662	8	8,883	11
Asheville, N. C.	10,374	10	3,451	13
Birmingham, Ala.	55,496	10	34,335	11
Montgomery, Ala.	12,857	12	11,868	9
Ft. Worth, Tex.	52,417	9	8,838	53
Houston, Tex.	103,055	10	24,600	13
Roanoke, Va.	17,892	14	2,976	4
Atlanta, Ga.	73,725	13	32,868	15
New Orleans, La.	107,470	14	44,775	15
Shreveport, La.	21,736	9	10,934	9

Source: Bureau of the Census, Department of Commerce, and the Bureau of Labor Statistics, Department of Labor, Veterans Housing Survey: Population, H. Vet. Nos. 84, 58, 97, 102, 100, 99, 101, 85, 69, 74, 65, 63, 64, 66, 70, 73, 78, 79, 75, 82, 68.

The range of degrees of "doubling up" among Negro families for the communities listed is from 4 to 53 per cent and the median is 11 per cent—a substantial figure, particularly in view of the fact that all the large cities included are at the median or above. The range for whites is from 6 to 17 per cent and the median is 10. This is no temporary condition. The Bureau of Labor Statistics, Construction Statistics Division, has gathered unpublished data which indicates that between December, 1946, and June, 1947, building operations were started on an infinitesimal number of dwelling units for Negro occupancy by comparison with those started on units for white occupancy. While the figures were derived from studies in selected cities and only in the specified months, they serve as an adequate indication of comparative activity. So long as demand for housing by white persons is active, it is obvious that little building for Negro occupancy will be

**PERCENT OF NON-WHITE POPULATION, NUMBER AND PERCENTAGE DISTRIBUTION OF DWELLING
UNITS STARTED, BY RACE OF OCCUPANTS IN SELECTED INDUSTRIAL AND URBAN AREAS
DECEMBER, 1946-JUNE, 1947**

Area	Percentage non-white population ¹	Number	Total Per cent	Dwelling Units Started ² White ³		Negro	
				Number	Per cent	Number	Per cent
December 1946							
Pittsburgh, Pa.	6	372	100.0	368	98.9	4	1.1
Columbus, Ohio	9	141	100.0	131	92.9	10	7.1
Minneapolis, Minn.	1	410	100.0	410	100.0	0	0.0
January 1947							
Atlanta, Ga.	29	365	100.0	351	96.2	14	3.8
Boston, Mass.	2	246	100.0	246	100.0	0	0.0
Chicago, Ill.	10	719	100.0	719	100.0	0	0.0
Dallas, Tex.	15	338	100.0	325	97.6	8	2.4
Denver, Colo.	4	274	100.0	274	100.0	0	0.0
New York, Newark, Jersey City	8	2,863	100.0	2,863	100.0	0	0.0
San Francisco Bay Area, Calif.	5	1,567	100.0	1,567	100.0	0	0.0
Seattle-Tacoma, Wash.:							
Seattle	4	376	100.0	376	100.0	0	0.0
Tacoma	1.7*						
St. Louis, Mo.	15	320	100.0	312	97.5	8	2.5
Washington, D. C.	24	719	100.0	696	96.8	23	3.2
Mobile Co., Ala.	27.6*	62	100.0	45	72.6	17	27.5
February 1947							
Detroit, Mich.	13	812	100.0	812	100.0	0	0.0
Philadelphia, Pa.-Camden, N. J.	13	372	100.0	372	100.0	0	0.0
Los Angeles, Calif.	6	5,675	100.0	5,667	99.9	8	.1
Memphis, Tenn.	41	476	100.0	344	82.7	72	17.3

Area	Percentage non-white population ¹	Number	Total Per cent	Dwelling Units Started ² White ³		Negro	
				Number	Per cent	Number	Per cent
March 1947							
Columbus, Ohio	9	274	100.0	274	100.0	0	0.0
Minneapolis, Minn.	1	194	100.0	194	100.0	0	0.0
Pittsburgh, Pa.	6	453	100.0	453	100.0	0	0.0
Sacramento, Calif.	5.8†	317	100.0	317	100.0	0	0.0
May 1947							
Detroit, Mich.	13	1,528	100.0	1,528	100.0	0	0.0
Los Angeles, Calif.	6	2,582	100.0	2,582	100.0	0	0.0
Philadelphia, Pa.-Camden, N. J.	13	1,481	100.0	1,481	100.0	0	0.0
Toledo, Ohio	5	104	100.0	102	98.1	2	1.9
June 1947							
Columbus, Ohio	9	174	100.0	165	94.8	9	5.2
Sacramento, Calif.	5.8†	183	100.0	283	100.0	0	0.0

¹ Source: Current Population Reports, Population Characteristics Series, Series P. 21, April 1947, Department of Commerce, Bureau of the Census.

² Bureau of Labor Statistics, Construction Statistics Division, Material not published.

³ Includes all-Negro units.

* Special Sample Survey of Ten Congested Production Areas, Series CA-2, No. 1, Department of Commerce, Bureau of the Census, 1944.

† Special Census, Series P-SC 183, Department of Commerce, Bureau of the Census, May 1945.

started. And when this demand slackens, racial restrictive covenants, the immediate effect of which is to limit Negro demand for housing, will check operations in spite of the need shown by the data on substandard and overcrowded dwellings contained in the Bureau of the Census Survey in April, 1947, presented above.

IV. JUVENILE DELINQUENCY RESULTS FROM CONGESTION.

Since there is no question, in the face of the facts outlined above, that Negroes live to a considerable degree, in substandard dwellings and are living in overcrowded homes and neighborhoods, it is in order to examine one of the chief results of such a situation. Crowded dwelling units create conflicts in the home and affect the feeling of security and emotional stability of the children in it. They expose the young to conditions which breed and encourage delinquency.²⁶ In the face of such a situation—aggravated by substandard housing and a congested neighborhood, such as reflected by the Bureau of the Census statistics here presented—proper parental guidance is impossible.²⁷ Good citizens cannot be developed under such circumstances.²⁸ The situation is further straitened by the relatively high rents paid by Negroes, as shown by Robinson, cited above. This drain on family resources causes diversion of funds needed for other physical and cultural purposes. It is a prime factor—along with the stringent housing shortage—of “doubling up.”²⁹

The National Conference on Prevention and Control of Juvenile Delinquency has aptly summarized the connection between restrictive covenants and juvenile delinquency:

²⁶ National Conference on Prevention and Control of Juvenile Delinquency. Report on Housing and Juvenile Delinquency (1946) p. 3. Myrdal, op. cit. p. 373.

²⁷ Ibid. p. 2.

²⁸ Ibid. p. 4.

²⁹ Report on Housing and Juvenile Delinquency, p. 4.

"Housing for minority racial groups, particularly Negroes, is among the worst in the United States. The core of this problem is the lack of land area for normal expansion. The operation of racial restrictive covenants and neighborhood opposition has resulted in residential segregation in dense settlements which virtually destroys any possibility of healthy family development. The creation of sharp dividing lines reverberates throughout the entire community to distort the attitudes and lives of young people of all races."³⁰

The following table shows the distribution of juvenile delinquency, by race, in six of the cities covered by the Bureau of the Census surveys which have been presented:

**JUVENILE DELINQUENCY CASES, 1945, DISPOSED OF BY
COURTS SERVING AREAS WITH POPULATIONS
OF 100,000 OR MORE.***

Area	Total Cases	White Offenders	Non-White Offenders	Pctg. Non-White Offenders	Ratio of Negro to Total Population
Wash., D. C.	3,202	1,331	1,871	59	24
Detroit, Mich.	1,990	1,499	491	25	13
St. Louis, Mo.	1,671†	1,069	580	35	15
Tulsa, Okla.	1,143	878	265	23	10
Phila., Pa.	9,652	5,332	4,320	45	13
Dallas, Texas	2,263	1,627	636	28	15

* Federal Security Agency, Social Security Administration, U. S. Children's Bureau, 11 The Child Supplement, p. 9f.

† Race was not reported in 22 cases.

This table shows clearly that the problem of juvenile delinquency is a serious one. In every instance, the Negro child is a more frequent offender than the comparative number of his race in the community would seem to justify. This is not by any means caused solely by racial restrictive covenants, but the covenants certainly contribute to the differences disclosed by figures in the last two columns.

³⁰ Ibid. p. 12.

V. THE BACKGROUND AND EFFECTS OF RACIAL RESTRICTIVE COVENANTS.

In the light of the facts so far presented, it seems desirable to sketch the background of the problem before this Court.

Racial residential segregation is an undemocratic device, as is any type of discrimination because of race, creed, color or national origin. And it is a weapon for purposes of offense only. Myrdal states:

"The sanctions which enforce the rules of segregation and discrimination will also be one-sided in their application. They are applied by the whites to the Negroes, never by the Negroes to the whites. Whites occasionally apply them to other whites who go too far, but the latter are felt to have already lost caste. The laws are written upon the pretext of equality, but are applied only against Negroes."³¹

There are, generally speaking, three causes of racial residential concentrations: poverty, ethnic attachment and enforcement by white people. These are the same factors which operated to segregate foreign immigrants during the latter half of the past century and in the first two decades of the present century. They operate differently, however, in the case of Negroes. Immigrants tended to group together while they adjusted themselves to a strange language and new customs. They lived in congested areas because their economic resources were limited. Because of their poverty and their strange languages and customs, older Americans tended to "keep them in their place." But as the immigrants or their descendants acquired larger incomes and adopted American social customs and the language of the country, they tended to leave the areas they inhabited. In a large measure, enforcement of segregation diminished, and they were able to leave the segregated

³¹ Myrdal, *op. cit.*, p. 577.

areas and find new, congenial and healthy surroundings. If Negroes faced the same situation, they would now be more widely scattered. Because of the poverty of a large number of them, there would still be many in congested and substandard areas, but not to the extent shown by the Bureau of the Census surveys. In fact, Negroes are, under present conditions, permanent aliens, and they are made so by racial segregation, largely through the operation of restrictive covenants.³²

It is often argued that Negroes like to be segregated; that they are happy in their lowly status; and that they do not want equality. One also meets frequently the contention that segregation is necessary to keep the peace between the races.³³ In fact, what segregation does to the bulk of Negroes is to increase their housing costs, to overcrowd them, lower their living standards, and lay them open to exploitation, since their poverty would tend to separate them anyway. The people even more sharply affected by segregation are the middle class and upper class Negroes. If white people did not exert pressure upon them when they had the means and the desire to move from segregated areas and disperse among other Americans, there would be no conflict. As we have seen, segregation is a weapon used solely by whites.³⁴ Their effects might be avoided if the real object of segregation were merely to keep whites and Negroes apart. But the emphasis is always to keep Negroes out of white neighborhoods. No effort is made to provide Negroes with adequate housing and new areas which they can inhabit.³⁵

At present, the best a Negro worker can do to escape slums and blighted areas and still remain in existing city limits is to move into districts where racial covenants are

³² Myrdal, *op. cit.*, p. 619f.

³³ Ibid, p. 584.

³⁴ Ibid, p. 625.

³⁵ Ibid, p. 350.

being broken or waived. New developments, except in the outskirts, are virtually non-existent. As a result, the Negro's—including Negro workers and AFL members—choice is limited to obsolescent dwellings dumped on the market at high prices. In an attempt to meet the heavy charges on the property, lodgers are taken in and houses are broken up into smaller units—and a new blighted area created by people seeking to get away from just such conditions.³⁶ It is not enough to “protect” white people from Negro “invasion.” Some method must be devised which will allow Negroes with adequate resources to leave the ghettos and to find decent houses in decent neighborhoods. Otherwise, “doubling up,” scandalous housing conditions, and mounting juvenile delinquency will continue.³⁷ Racial restrictive covenants are an important contributing cause of the failure to provide the necessary outlets for the pressures generated by segregation.³⁸

No satisfactory solution of this problem is possible within the existing physical limits of segregated areas. Existing buildings are of limited value as residences. The land, however, is valuable for business use, and the tax rate high. Repair of existing structures or erection of new ones are retarded by the high costs.³⁹

Nor is there much hope for relief by dispersion to outlying areas. These are usually unimproved and without adequate municipal utilities or protection services. Furthermore, restrictive racial covenants are an increasingly potent barrier.⁴⁰

Only the abandonment of the restrictive covenant and other practices of segregation will solve the problem. Even

³⁶ Report on Racial Relations (November, 1946) p. II-C-10.

³⁷ Myrdal, op. cit., p. 626.

³⁸ Report on Racial Relations, p. II-C-10.

³⁹ C. S. Johnson. “Patterns of Negro Segregation,” (New York, 1943, p. 10).

⁴⁰ Report on Racial Relations, p. II-C-11.

if possible planning to meet the needs of minority groups is undertaken—something which is certainly not being done adequately—housing segregation simply serves as a means to expose those groups to other forms of discrimination, particularly on the part of officials.⁴¹ Segregation in schools, hospitals and other public places is an inevitable result of residential segregation even if not the result of conscious policy.⁴² If prejudice on the part of officials exists, discrimination may be practiced and considerable harm done to Negroes without direct effect upon whites.⁴³

One of the important forces operating to maintain residential segregation of Negro workers is informal social pressure. In many cases, whites will not sell or rent to Negroes, and they will meet any new Negro residents in their community with social and—in extreme cases—physical hostility. The pressure of need often causes Negroes to move to new areas in spite of this opposition.⁴⁴ The first means devised for supporting informal pressures after the Reconstruction Era was the zoning regulation, in many and devious forms. This Court, in *Buchanan v. Worley*, 245 U. S. 60; *Harmon v. Tyler*, 273 U. S. 668, and *City of Richmond v. Deans*, 281 U. S. 704, has barred the use of this method, on the ground that the Fourteenth Amendment deprives the State of the power to enact and enforce through its executives regulations which make distinctions between citizens based on color. In order to evade the effects of the rulings of this Court, racial restrictive covenants were devised. They now constitute the chief bulwarks to support informal social pressure where it may weaken.⁴⁵

⁴¹ Myrdal, *op. cit.* p. 618.

⁴² *Ibid.* p. 601f. Johnson, *op. cit.* p. 8.

⁴³ *Ibid.* p. 618.

⁴⁴ *Ibid.* p. 622.

⁴⁵ Report of the President's Committee on Civil Rights. "To Secure These Rights," p. 91.

In actual effect, the racial restrictive covenant has been a successful instrument to accomplish all the purposes of the zoning regulations which this Court held to be beyond the powers of the States.⁴⁶ But its effectiveness rests upon the judicial enforcement by State courts—as much the instrumentality of the State as the legislative and the executive—of the agreements made between individuals who have and exercise no responsibility to the State for the consequences of their acts.⁴⁷

⁴⁶ M. T. Van Hecke. "Zoning Ordinances and Restrictions in Deeds," 37 Yale L. J. 413 (Feb. 1928). Cited in R. Sterner, "The Negro's Share" (New York, 1943, p. 208).

⁴⁷ Report of the President's Committee on Civil Rights, p. 69. Johnson, op. cit., p. 177.

CONCLUSION

In order to make possible the elimination of the undesirable conditions which are aggravated by racial restrictive covenants, and which have been outlined in this brief, the American Federation of Labor urges that this Court deny to the State and Federal judiciary the power to enforce racial restrictive covenants on the ground that they are in purpose and effect racial zoning ordinances. It is clear that they invariably operate to close to occupancy by Negroes whole sections of cities and are useless if they do not effectuate the economic and social purposes of those who perpetuate their execution, at the expense of the entire community. A State, through its courts, cannot, consistently with the Fourteenth Amendment, enforce racial zoning ordinances whether such ordinances are inaugurated by act of the state legislature or by private individuals."

Respectfully submitted,

HERBERT S. THATCHER,
ROBERT A. WILSON,
Attorneys.

736 Bowen Building,
Washington 5, D. C.

HARRY B. MERICAN,
of Counsel,
1815 17th Street, N. W.,
Washington 9, D. C.

⁴⁸ Brief in these cases submitted by American Civil Liberties Union as Amicus Curiae.